

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
SOUTHERN DIVISION**

<b>ROBERT JENNINGS,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Case No.</b>
	)	
<b>ANNE L. PRECYTHE,</b>	)	
<b>in her official capacity as</b>	)	
<b>Director of the Missouri</b>	)	
<b>Department of Corrections</b>	)	
<b>SERVE AT:</b>	)	
<b>Ms. Anne L. Precythe,</b>	)	
<b>2729 Plaza Drove</b>	)	
<b>Jefferson City, Missouri 65102</b>	)	
	)	
<b>Defendant.</b>	)	

**COMPLAINT**

COME NOW Plaintiff, by and through his attorneys of record, and for his cause of action against the Defendants, states to the court as follows:

**JURISDICTION**

1. The cause of action stated herein arose and accrued in the City of Springfield, Greene County, Missouri.
2. Plaintiff ("Mr. Jennings") is an individual who is a resident of Greene County, Missouri.
3. Defendant Anne L. Precythe (hereinafter "Director") is an individual who is a resident of the State of Missouri and who is the Director of the Missouri Department of Corrections.
4. This Court has jurisdiction in that the cause of action is based on the existence of a Federal question and that this action arises out of the Constitution of the

United States, and the 4<sup>th</sup>, 5<sup>th</sup>, 8<sup>th</sup> and 14<sup>th</sup> Amendments thereto. Specifically, the cause of action against the Director arose from certain acts of those Defendants, acting pursuant to state law or statute, and that these acts deprived Plaintiff of certain rights and privileges guaranteed by the Constitution which will be more specifically described herein.

#### **ALLEGATIONS COMMON TO ALL COUNTS**

1. That venue is proper in that on or about June 15, 2013, Plaintiff was incarcerated in the Missouri Department of Corrections pursuant to a four (4) year sentence issued in Greene County case No. 306CF11512.
2. On or about March 7, 2017, Mr. Jennings was in the Algoa correctional facility when he was summoned from the lunchroom to the warden's office.
3. The warden told Mr. Jennings there was a mistake with his release date calculation, apologized, admitted it was the state's fault, and that he had never seen a miscalculation so severe.
4. The warden proceeded to explain to Mr. Jennings that he had been detained for 629 days more than he should have been due to the DOC's failure to apply his SCR credit.
5. The warden then arranged for two prison employees to personally drive Mr. Jennings home. On the way, the employees stated that what happened was "wrong" and that "he should hire an attorney."
6. RSMo. section 558.031.1 entitles Mr. Jennings to credit for all time served in custody prior to formal sentencing which is related to that offense.

7. In interpreting the statute, and in a case factually very similar to Mr. Jennings', the Missouri Supreme Court upheld this interpretation of the law. *Goings v. Missouri Department of Corrections*, 6 S.W.3d 906 (Mo. banc 1999).
8. Plaintiff was thereby damaged regarding the violation of his constitutional rights, including the 4<sup>th</sup>, 5<sup>th</sup>, 8<sup>th</sup> and 14<sup>th</sup> amendment rights to be free from false imprisonment and for the failure to afford due process.

**COUNT I – 42 U.S.C. 1983 CLAIM**

COME NOW Plaintiff, by and through his attorney of record, and for Count I of his cause of action against the Defendant, states to the court as follows:

1. Plaintiff restates the Allegations Common to All Counts as though fully stated herein.
2. The Defendant, under color of statute, ordinance, regulation, custom, or usage of the state of Missouri, subjected and caused to be subjected, Plaintiff, a citizen of the United States, to the deprivation of his rights, privileges, and immunities secured by the Constitution and laws of the United States.
3. Plaintiff was thereby damaged and Defendant shall be liable to Plaintiff pursuant to 42 U.S.C. § 1983.
4. The Constitutional right that Plaintiff was deprived of is found in the 4<sup>th</sup>, 5<sup>th</sup>, 8<sup>th</sup> and 14<sup>th</sup> Amendments, which promises the right of the people to be secure in their persons, against unreasonable seizures, false imprisonment, protecting the right of due process, and protecting against cruel and unusual punishment.
5. That the detention of Plaintiff by and through the improper calculation

of incarceration release dates in this matter was an unreasonable seizure and false imprisonment according to the law.

6. That the right violated was a clearly established one and sovereign immunity and qualified immunity do not apply in defense of the same.
7. That Defendant has a duty to direct, teach, train and conduct themselves pursuant to the laws of the United States and the State of Missouri.
8. Defendant, exercised deliberate indifference to the rights of Plaintiff, and violated his clearly established right to be free from unreasonable seizures, in that they:
  - a. Failed to properly train officers in the calculation of incarceration release dates;
  - b. Failed to establish written policies or follow training regarding the calculation of incarceration release dates;
9. There existed the obvious need for written policies and training as to calculation of incarceration release dates that are consistent with the state or federal law, but there were none, or those in place were inadequate.
10. Defendant's deliberate indifference to the rights of others was the proximate cause of the violation of the civil rights of Plaintiff.
11. That Plaintiff was thereby damaged.
12. Pursuant to 42 U.S.C. section 1988, Plaintiff is entitled to attorney fees.

WHEREFORE, Plaintiff prays:

- (a) That the Court enter judgment in favor of Plaintiff and against Defendant for his cause of action;
- (b) That the Plaintiff be awarded compensatory damages in an amount that is fair and reasonable;
- (c) That Plaintiff be awarded his costs and expenses incurred in pursuit of this suit, including, but not limited to, reasonable attorney's fees; and,
- (d) Such other relief as this Court deems just and proper.

Respectfully submitted,

ROBERTS & EASLEY LLC

By

Joshua K. Roberts  
Missouri Bar #47823  
2202 West Chesterfield Blvd.; Ste. 100  
Springfield, Missouri 65807  
417-881-1076  
417-881-3273 Fax  
Email: [jroberts@robertsandeasley.com](mailto:jroberts@robertsandeasley.com)  
ATTORNEY FOR PLAINTIFF